

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY PEREZ,

Plaintiff,

v.

G. CERVANTES,

Defendant.

No. 1:22-cv-00390-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. Nos. 2, 6)

Plaintiff Randy Perez is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on April 2, 2022, together with a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 and a certified copy of his prison trust account statement. (Doc. Nos. 1, 2.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 4, 2022, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's application to proceed *in forma pauperis* be denied and that plaintiff be required to pay the \$402.00 filing fee in full to proceed with this action because he is able to afford the filing fee costs. (Doc. No. 6.) Specifically, the magistrate judge found that plaintiff's prisoner account balance at the time he filed this action was \$2,624.27. (*Id.* at 1.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 2.)

On April 13, 2022, plaintiff filed objections to the pending findings and recommendations, in which he argued that the money in his account is meant for his rehabilitation and re-entry into society. (Doc. No. 7.) However, plaintiff's objections do not impact the conclusions the magistrate judge reached in the pending findings and recommendations. Plaintiff does not contest that he has sufficient funds to pay the filing fee in this action; rather, he only avers that his current account balance is intended for the expenses he will incur upon his release from prison. Plaintiff has provided no authority suggesting that money intended to support rehabilitation or re-entry cannot be considered in determining whether *in forma pauperis* applicants are otherwise able to pay their court fees.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's objections, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly,

1. The findings and recommendations issued on April 4, 2022 (Doc. No. 6) are adopted;
2. In accordance with 28 U.S.C. § 1915(g), plaintiff's application to proceed *in forma pauperis* (Doc. No. 2) is denied;
3. Within twenty-one (21) days following service of this order, plaintiff shall pay the required \$402.00 filing fee in full to proceed with this action;
4. Plaintiff's failure to pay the filing fee within the specified time will result in the dismissal of this action; and
5. This matter is referred back to the assigned magistrate judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: May 16, 2022

  
UNITED STATES DISTRICT JUDGE